



## SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

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**Doug Ose (CA-03), Chairman**

### **PRESS RELEASE**

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## **GAO STUDY FINDS INCONSISTENT WETLANDS INTERPRETATIONS AMONG CORPS DISTRICT OFFICES**

WASHINGTON D.C. - Today, House Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs Chairman Doug Ose announced the release of the General Accounting Office's (GAO) report entitled "Waters and Wetlands, Corps of Engineers Needs to Evaluate Its District Office Practices in Determining Jurisdiction."

"This report confirms that the Army Corps of Engineers (Corps) does not have a consistent set of criteria that it uses to determine whether a wetland or tributary is subject to Federal regulation under Section 404 of the Clean Water Act," Ose stated. "It is clearly unfair that the tens of thousands of applicants that seek Corps permits each year face widely varying interpretations of Federal regulations. The Administration needs to remedy this situation."

Chairman Ose held a hearing on September 9, 2002 on how the Environmental Protection Agency (EPA) and the Corps implemented the Supreme Court's landmark wetlands decision. This decision, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, removed the existence of migratory birds as a basis for exercising Federal jurisdiction. Witnesses testified that, since the Supreme Court's decision, the Corps' jurisdictional decisions are usually made on a case-by-case basis without a clear national policy.

In response to hearing testimony, on February 11, 2003, Chairman Ose requested that GAO conduct a study regarding Federal agency interpretations relating to jurisdictional waters under Section 404 of the Clean Water Act. Ose asked GAO to study "what criteria district and regional offices use in making these jurisdictional decisions and to what extent these criteria vary from region to region."

GAO reviewed practices in 16 of the 38 district offices reviewed, each district office used and interpreted jurisdictional criteria differently. GAO found, and the Corps agreed, that the report demonstrated sufficient inconsistencies in district office practices to warrant a complete review of all Corp district office jurisdictional decisions. The GAO report also concluded that only 3 of 16 districts reviewed provided the public with documentation of its jurisdiction decisions.

A link to the Ose Subcommittee's hearing can be found at:

<http://reform.house.gov/EPNRR/Hearings/EventSingle.aspx?EventID=356>.

